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9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-40

13 KARIN LIANE LYON
21 Genoa
14 Laguna Niguel, CA 92677

A C C U S A T I O N

15 Registered Nurse License No. 571559

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about September 8, 2000, the Board of Registered Nursing issued
24 Registered Nurse License Number 571559 to Karin Liane Lyon (Respondent). The Registered
25 Nurse License was in full force and effect at all times relevant to the charges brought herein and
26 will expire on March 31, 2010, unless renewed.

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1 or in a manner dangerous or injurious to himself or herself, any other person, or
2 the public or to the extent that such use impairs his or her ability to conduct with
safety to the public the practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription,
4 consumption, or self-administration of any of the substances described in
5 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
record pertaining to, the substances described in subdivision (a) of this section, in
which event the record of the conviction is conclusive evidence thereof.

6

7 8. Section 490 of the Code states:

8 A board may suspend or revoke a license on the ground that the licensee
9 has been convicted of a crime, if the crime is substantially related to the
10 qualifications, functions, or duties of the business or profession for which the
license was issued. A conviction within the meaning of this section means a plea
11 or verdict of guilty or a conviction following a plea of nolo contendere. Any
action which a board is permitted to take following the establishment of a
12 conviction may be taken when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal, or when an order granting probation is
made suspending the imposition of sentence, irrespective of a subsequent order
under the provisions of Section 1203.4 of the Penal Code.

13
14 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
15 request the administrative law judge to direct a licentiate found to have committed a violation or
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
17 and enforcement of the case.

18 10. Section 118, subdivision (b), of the Code provides that the suspension/
19 expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to
20 proceed with a disciplinary action during the period within which the license may be renewed,
21 restored, reissued or reinstated.

22 11. Section 492 of the Code states:

23 Notwithstanding any other provision of law, successful completion of any
24 diversion program under the Penal Code, or successful completion of an alcohol
and drug problem assessment program under Article 5 (commencing with section
25 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit
any agency established under Division 2 ([Healing Arts] commencing with
26 Section 500) of this code, or any initiative act referred to in that division, from
taking disciplinary action against a licensee or from denying a license for
27 professional misconduct, notwithstanding that evidence of that misconduct may
be recorded in a record pertaining to an arrest.

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1 This section shall not be construed to apply to any drug diversion program
2 operated by any agency established under Division 2 (commencing with Section
500) of this code, or any initiative act referred to in that division.

3 12. Section 493 of the Code states:

4 Notwithstanding any other provision of law, in a proceeding conducted by
5 a board within the department pursuant to law to deny an application for a license
6 or to suspend or revoke a license or otherwise take disciplinary action against a
7 person who holds a license, upon the ground that the applicant or the licensee has
8 been convicted of a crime substantially related to the qualifications, functions,
9 and duties of the licensee in question, the record of conviction of the crime shall
10 be conclusive evidence of the fact that the conviction occurred, but only of that
11 fact, and the board may inquire into the circumstances surrounding the
12 commission of the crime in order to fix the degree of discipline or to determine if
13 the conviction is substantially related to the qualifications, functions, and duties
14 of the licensee in question.

15 As used in this section, "license" includes "certificate," "permit,"
16 "authority," and "registration."

17 13. California Code of Regulations, title 16, section 1444, states:

18 A conviction or act shall be considered to be substantially related to the
19 qualifications, functions or duties of a registered nurse if to a substantial degree it
20 evidences the present or potential unfitness of a registered nurse to practice in a
21 manner consistent with the public health, safety, or welfare. Such convictions or
22 acts shall include but not be limited to the following:

23 (a) Assaultive or abusive conduct including, but not limited to, those violations
24 listed in subdivision (d) of Penal Code Section 11160.

25 (b) Failure to comply with any mandatory reporting requirements.

26 (c) Theft, dishonesty, fraud, or deceit.

27 (d) Any conviction or act subject to an order of registration pursuant to
28 Section 290 of the Penal Code.

14. California Code of Regulations, Title 16, section 1445 states:

....

(b) When considering the suspension or revocation of a license on the
ground that a licensed vocational nurse has been convicted of a crime, the Board,
in evaluating the rehabilitation of such person and his eligibility for a license will
consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or
offense(s).

1 (4) Whether the licensee has complied with any terms
2 of parole, probation, restitution, or any other
sanctions lawfully imposed against the licensee.

3 (5) If applicable, evidence of expungement proceedings
4 pursuant to Section 1203.4 of the Penal Code.

5 (6) Evidence, if any, of rehabilitation submitted by the
6 licensee.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(November 29, 2007 Criminal Conviction for DUI on May 22, 2007)**

8 15. Respondent has subjected her license to disciplinary action under sections
9 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is
10 substantially related to the qualifications, functions, and duties of a registered nurse. The
11 circumstances are as follows:

12 a. On or about November 29, 2007, in a criminal proceeding entitled
13 *People v. Karin Liane Lyon, a.k.a. Karen Liane Miller*, in Orange County Superior Court Case
14 No. 07SM02171, Respondent was convicted on her plea of guilty for violating Vehicle Code
15 section 23152, subdivision (a), driving under the influence of alcohol, a misdemeanor.

16 b. As a result of the conviction, on or about November 29, 2007,
17 Respondent was sentenced to three years informal probation, payment of fees, fines, and
18 restitution in the amount of \$1,510.50. Respondent was further ordered to attend and complete a
19 three-month Level 1 First Offender Alcohol Program, a MADD Victim's Impact Panel, and not
20 to drive with a measurable amount of alcohol in her blood.

21 c. On or about March 19, 2008, a hearing was held regarding
22 Respondent's termination from the three-month Level One First Offender Program. On or about
23 July 10, 2008, in conjunction with sentencing in a companion case (paragraph 16, below),
24 Respondent admitted she was in violation of probation. Respondent was ordered to comply with
25 the terms and conditions imposed in case number 08SM00245 (below). On or about August 7,
26 2008, Respondent's probation was reinstated in the Level One Alcohol Program, to run
27 concurrent with the Multiple Offender Program ordered in case number 08SM00245, below.

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1 d. The circumstances that led to the conviction were that on or about
2 the early morning hours of May 22, 2007, an Orange County Sheriff's Deputy observed
3 Respondent driving her vehicle in the bicycle lane on a major thoroughfare in the city of Laguna
4 Niguel. The deputy followed Respondent in his patrol vehicle and noted that Respondent moved
5 into the No. 2 lane, then straddled the No. 2 and No. 1 lanes. As the deputy moved behind
6 Respondent's vehicle to initiate a traffic stop, Respondent's car accelerated and moved back into
7 the bicycle lane. Respondent appeared to be preparing for a right turn from the bicycle lane, but
8 then drove through an intersection and veered into the No. 2 lane. The deputy activated his full
9 overhead lights and Respondent moved into the bicycle lane and continued until she turned right
10 into an apartment complex. After stopping Respondent, the deputy noted that Respondent's eyes
11 were bloodshot, watery, and the pupils were dilated. He smelled a strong odor of alcohol on
12 Respondent's breath and her speech was soft and slurred. The deputy administered Field
13 Sobriety Tests to Respondent. Respondent was not able to successfully complete any of the
14 tests. Two chemical tests of Respondent's breath yielded a Blood Alcohol Content (BAC) of
15 0.26%.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(July 10, 2008 Criminal Conviction for DUI with Prior on November 28, 2007)**

18 16. Respondent has subjected her license to disciplinary action under sections
19 490 and 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is
20 substantially related to the qualifications, functions, and duties of a registered nurse. The
21 circumstances are as follows:

22 a. On or about July 10, 2008, in a criminal proceeding entitled *People*
23 *v. Karin Liane Lyon, a.k.a. Karen Liane Miller*, in Orange County Superior Court Case No.
24 08SM00245, Respondent was convicted on her plea of guilty for violating Vehicle Code sections
25 23152, subdivision (a), driving under the influence of alcohol with one prior DUI conviction;
26 and 23152, subdivision (b), driving with a blood alcohol content of .08% or more with one
27 prior. (See paragraph 15, above.) It was also alleged that Respondent had a blood alcohol
28 concentration of .20 or greater, which she admitted.

1 b. As a result of the conviction, on or about July 10, 2008,
2 Respondent was sentenced to 120 days in the Orange County Jail, which was stayed pending
3 successful completion of the DUI Court Program. The DUI Court Program requires five years
4 formal (supervised) probation, attendance at group and individual counseling, Alcoholics
5 Anonymous meetings, probation meetings, and alcohol/drug screenings. Respondent was
6 ordered to pay fees, fines, and restitution. Respondent was further ordered to attend and
7 complete a Multiple Offender Program (pursuant to SB-38), and a MADD Victim Impact Panel.
8 Respondent's driver's license was suspended for two years.

9 c. The circumstances that led to the conviction were that on or about
10 the evening of November 28, 2007, the day before she was to appear in Orange County Superior
11 Court for sentencing on case number 07SM02171 (above), an Orange County Sheriff's Deputy
12 was dispatched to respond to a vehicle stopped in a Laguna Niguel roadway. (The responding
13 deputy was also the arresting officer for Respondent's DUI arrest on May 22, 2007.) When the
14 deputy arrived at the scene, he observed Respondent passed out in the driver's seat with the
15 engine running and headlights on. The vehicle doors were locked and the windows were shut.
16 The deputy tapped the window with his flashlight and yelled at Respondent until she finally
17 woke up. The deputy observed that Respondent looked to her right and started talking as though
18 there was someone in the car with her. Respondent started reaching for the controls of the
19 vehicle. The deputy continued to hit the window until Respondent finally acknowledged him.
20 The deputy got Respondent to roll down her window. Respondent told the deputy she was O.K.
21 but tired. The deputy noted a strong odor of alcohol on her breath; her eyes were bloodshot and
22 watery and her speech was slow and slurred. Respondent agreed to perform field sobriety tests,
23 all of which she failed. Following her arrest, Respondent gave a blood sample which
24 subsequently tested with a BAC of 0.31%.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

27 17. Respondent has subjected her license to disciplinary action under section
28 2762, subdivision (b) of the Code in that Respondent used alcohol in a manner dangerous and

1 injurious to herself and the public as evidenced by Respondent's two alcohol-related convictions
2 as alleged in paragraphs 15 and 16, above, and constitutes unprofessional conduct. Chemical
3 tests of Respondent's blood conducted by law enforcement agencies resulted in BAC levels of
4 0.26% on or about May 22, 2007, and 0.31% on or about November 28, 2007. That Respondent
5 would operate a motor vehicle with such a dangerously high level of alcohol in her system
6 indicates a serious disregard for herself and the safety of the public, and further indicates a
7 potential addiction to alcohol.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct - Conviction of Alcohol-Related Offenses)**


10 18. Respondent has subjected her license to disciplinary action under section
11 2762, subdivision (c) of the Code in that Respondent was convicted of two alcohol-related
12 offenses in an eight-month period as alleged in paragraphs 15 and 16, above. Respondent's
13 convictions and her inability to abide by the terms and conditions of her probation constitute
14 unprofessional conduct.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 18 1. Revoking or suspending Registered Nurse License Number 571559,
19 issued to Karin Liane Lyon;
- 20 2. Ordering Karin Liane Lyon to pay the Board of Registered Nursing the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 125.3;
- 23 3. Taking such other and further action as deemed necessary and proper.

24
25 DATED: 8/21/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant